

EPI-0672

PATENT

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Jonathan W. Nyce : Art Unit: 1635  
Serial No.: 09/093,972 : Examiner: Dr. Epps  
Filed: June 9, 1998 : Appl. Ref. No.: EPI-00672  
For: COMPOSITION, FORMULATIONS & METHOD FOR PREVENTION &  
TREATMENT OF DISEASES AND CONDITIONS ASSOCIATED WITH  
BRONCHOCONSTRICTION, ALLERGY(IES) & INFLAMMATION

Preliminary Amendment

I hereby certify that this correspondence is being faxed at 703-305-7939, to the Assistant Commissioner for Patents, Washington DC 20231 on November 26, 2001, by Rashida Haji.

SIGNATURE

*R. Haji*

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir/Madam:

Supplemental to the filing of a Continued Prosecution Application (CPA) filed November 7, 2001 (copy enclosed), and the Office Action of November 7, 2000, please amend the above identified patent application as follows.

IN THE CLAIMS

Please amend the claims as shown in the attachment. The changes made are shown in the attachment captioned "Marked up Claims".

REMARKSTHE INTERVIEW

Applicant thanks Dr. Epps for an interview granted him and his attorney on October 24, 2001. During the interview the applicant explained the criticality of particle size in claim 173, and it was agreed that two separate ranges would be incorporated as described by the application as filed. The present text of claim 173 is patentably distinguishable over the Bennett patent cited earlier by the examiner. The remaining objections to the claim language raised by the examiner have also been addressed by the present amendments. The examiner is requested to consider the claims as they are submitted and allow this application.

SERIAL NO: 08/093,972

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**THE PENDING CLAIMS**

Claims 108-131, 133-134, 146, 148, 151-156, 158-159, 161-173, 178-181, 184-189, 191-193, 195-198 and 200-234 are pending in this case, and claims 108, 113, 115, 119, 130, 137, 146, 148, 152, 158, 162-168, 171-173, 178, 181, 185-189, 191, 200, 206, 208, 210-212, 215, 219, 221-231, and 234 are being amended hereby. Accordingly, claims 108-131, 133-134, 146, 148, 151-156, 158-159, 161-173, 178-181, 184-189, 191-193, 195-198 and 200-234 remain pending.

Attached hereto is a marked-up version of the claims showing changes made by the current amendment. Also attached is a version titled "Marked-up Claims" showing the changes made".

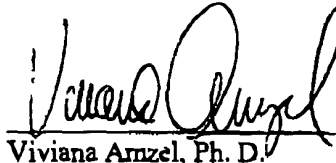
The claims have been amended as discussed with the examiner and are, therefore, believed to be in allowable form. No new matter is believed to be present in the pending claims. Therefore, the applicant believes they are in condition for allowance.

**GENERAL REMARKS**

No fees are believed to be due for the filing of this Preliminary Amendment. However, the Assistant Commissioner for Patents is hereby authorized to charge any fees owed to Deposit Account No. 50-1728, including fees for an extension of time which, if necessary, is hereby requested.

In view of the foregoing amendments and remarks, this application is believed to be in condition for examination and allowance. Early notice to this respect is solicited.

Respectfully submitted,  
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November 15, 2001  
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